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FISCAL IMPACT STATEMENT

LS 6750

BILL NUMBER: HB 1098

NOTE PREPARED: Jan 7, 2010

BILL AMENDED:

SUBJECT: Occupational Licensing.

FIRST AUTHOR: Rep. Welch

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: ☒ **GENERAL**
☒ **DEDICATED**
FEDERAL

IMPACT: State & Local

Summary of Legislation: This bill has the following provisions:

Attorney General and Health Records- The bill establishes procedures for the Attorney General to seize, secure, store, and destroy abandoned or at-risk health records and other records containing personally identifying information. The bill creates the Health Records and Personal Information Protection Trust Fund (HRPIPTF) to pay for costs associated with securing and maintaining the records.

Home Health Agency Criminal Checks- The bill allows a criminal history check for employees of home health agencies and personal services agencies to be provided through a private agency. The bill removes the July 1, 2010, expiration that allows limited criminal histories to be used for employees of home health agencies and personal services agencies.

Uniform Cease and Desist- The bill establishes a uniform procedure to allow a board of a regulated occupation to issue a cease and desist order to an unlicensed person who engages in an activity that requires a license. The bill repeals and makes conforming changes concerning cease and desist and injunction orders.

Merger of Barber and Cosmetology Boards- The bill merges the Cosmetology and Barbers Boards into one board. The bill changes the membership on the Board of Cosmetology and Barber Examiners. The bill relocates barber statutes.

Mental Health Counselor Associate License- The bill establishes a mental health counselor associate license.

Insurance Reimbursement for Athletic Trainers- The bill requires reimbursement under a policy of accident and sickness insurance or health maintenance organization contract for services provided by a licensed

athletic trainer on an equal basis to reimbursement under the policy or contract for the health care services provided by other health care providers.

Elimination of Controlled Substances Advisory Committee- The bill eliminates the Controlled Substances Advisory Committee and transfers responsibilities to the Indiana Board of Pharmacy.

Revocation of Controlled Substances Permit- The bill provides for automatic revocation of controlled substances permit if a physician's license is revoked. (Current law requires a separate administrative process to take place if a physician's license is revoked.)

Repeal of Environmental Health Specialists and Hypnotists- The bill repeals laws concerning the certification of environmental health specialists and licensure of hypnotists.

Conforming Changes- The bill makes conforming changes.

Effective Date: June 30, 2010; July 1, 2010.

Explanation of State Expenditures: *Attorney General and Health Records-* The Attorney General (AG) would require additional expenditure to carry out this provision. The AG would be able to apply to the Marion County Circuit Court to enforce any subpoenas issued. The AG would be able to notify persons if their medical records have been taken into possession. The AG would be entitled to costs of any enforcement action taken.

Medical records would have to be maintained in a depository the lesser of either three years or the remaining time on the storage of the records by a private medical professional in current law.

Home Health Agency Criminal Checks- This bill will result in a continuance of the number of limited criminal history background checks performed in the state for employees of home health agencies and personal service agencies who have lived in the state for two years or more.

Currently, code provisions that require home health agency and personal service agency employees to obtain limited criminal history background checks if they have lived in the state for two or more years exist until June 30, 2010. After this date, all employees of home health agencies and personal service agencies will be required to obtain a national criminal history background check.

The bill also adds that employees of home health agencies and personal service agencies who have lived in the state for less than two years may obtain either a national criminal history background check or an expanded criminal history background check.

An expanded criminal history check includes a search of: (1) all the records maintained by all counties in Indiana and (2) the records maintained by all counties or similar government units in another state if the individual resided in another state in which the individual who is the subject of the investigation resided.

A national criminal history background check means a search of the criminal history background system maintained by the Federal Bureau of Investigation (FBI) based on fingerprint identification or any other method of positive identification. A national criminal history background check satisfies the requirements of the expanded criminal history background check, but an expanded criminal history background check may not satisfy the requirements of the national criminal history background check (depending on the search

methods of the background check administrator).

This bill may minimally affect the workload of the Indiana State Police and the Indiana Office of Technology because of the background check provisions. However, these provisions are not expected to affect staffing levels.

Uniform Cease and Desist- This provision may generate a minor increase in expenditures for the AG if more investigations involving professional licenses occur. Under current law, the AG already investigates complaints of the licensed professions and can currently enjoin an individual found in violation of licensing law.

The Professional Licensing Agency (PLA) is currently able to, or in conjunction with the AG, impose cease and desist orders on various professionals. This provision should affect PLA expenditures minimally.

Board Merger & Repeal of Environmental Health Specialists and Hypnotists- The proposed elimination and merger of the proposed boards would present a savings to state expenditures in the form of reduced salary per diem, mileage, hotel, staff, and materials cost. However, the following table provides estimates of savings only, as the PLA does not tabulate board costs separately at this time. The estimated savings assume full attendance at meetings, hotel stays, average round trip mileage of 150 miles, and staff costs for a 7.5-hour full meeting day.

Table. A. Merger of Barber and Cosmetology Boards, Elimination of Dietician and Hypnotist Committees Estimated Expenditure Savings.	
Board Member Per Diem, Travel, Lodging, and other Expenses	\$22,837
Agenda Packet Preparation	\$600
Mailing of Packets	\$1,320
Staff Meeting Time	\$3,985
TOTAL ESTIMATED SAVINGS	\$28,742

The number of members of the proposed Barber and Cosmetology Board would remain the same as the current Cosmetology Board.

With respect to the eliminated boards (Controlled Substances Advisory Committee, Hypnotists, and Environmental Health Specialists), the Controlled Substances Advisory Committee's duties would be given to the Pharmacy Board. Licensing or certification of hypnotists and Environmental Health Specialists would cease in Indiana as a result of this provision. (See *Explanation of State Revenues*.)

Evaluation of Professional Occupations- The bill would establish a committee to review regulated occupations. Each licensed occupation would have to be evaluated every seven years. The committee would consist of seven individuals, including the Dean of the Indiana University School of Public and Environmental Affairs, the Director of the PLA, and the AG or their designees. Additionally, the Governor would appoint four members. Those members would receive travel reimbursement. PLA staff would provide administrative assistance to the committee. It is likely the PLA would be able to staff this proposed

committee within their existing level of resources. The impact on state expenditures from committee member travel would depend on the number of times the proposed committee would meet and the driving distance for the members.

Revocation of Controlled Substances Permit- This provision would speed up the process of removing a controlled substances permit certification from a person that has had their professional license revoked. The process, along with the elimination of the Controlled Substances Advisory Committee, should reduce the administrative expense to process two separate revocation proceedings.

Mental Health Counselor Associate License- Given that the PLA currently processes mental health counselor licenses, it is likely that this provision would not require more than a negligible increase in expenditures to carry out. The main cost would likely be the development of an exam, if a standard exam is not adopted by the Behavioral Health Board.

Insurance Reimbursement for Athletic Trainers- This bill would apply to the state to the extent that the state contracts with Welborn HMO. For 2008, 1,404 state employees with 1,825 dependents were enrolled in Welborn HMO. Providing reimbursement for services provided by an athletic trainer under an HMO contract could increase premiums. These increases may not necessarily imply additional budgetary outlays since the state's response to increased health benefit costs may include (1) greater employee cost-sharing in health benefits; (2) reduction or elimination of other health benefits; and (3) passing costs onto workers in the form of lower wage increases than would otherwise occur. It is unknown at this time if the state would cover added costs or pass the costs on to employees.

Explanation of State Revenues: *Attorney General and Health Records-* This provision would set up the Health Records and Personal Information Protection Trust Fund (HRPIPTF) to fund the AG's expenditures to carry out health record seizure, storage, and maintenance as required under the bill. Revenue would come from a \$5 civil penalty to be assessed along with every disciplinary order imposed on a person by a professional board.

The amount of revenue this provision could generate in a given year is indeterminable and would depend on the number of disciplinary orders handed down by professional boards in the future. However, the HRPIPTF would be capped at \$75,000. If the HRPIPTF exceeded \$75,000, the \$5 civil penalty imposition would cease until the fund balance went below \$75,000. The AG would administer the HRPIPTF. Revenue in the HRPIPTF would not revert to the state General Fund at the end of a state fiscal year.

Home Health Agency Criminal Checks- This provision would result in continued revenue receipts from limited criminal history background requests for employees who have lived in the state for more than two years. Depending on the method used to request a limited criminal history background check, revenue to the IOT Portal Fund and the General Fund may increase. For every limited criminal history background check requested, \$7 is forwarded to the General Fund. If a limited criminal history background check is requested online using AccessIndiana, either \$8 or \$9.32 (depending if the requestor is an AccessIndiana member or not) is deposited in the IOT Portal Fund.

The provision may also result in decreases in state revenue to the extent employees who have lived in the state for less than two years elect to request an expanded criminal history background check rather than a national criminal history background check.

For every national criminal history background check performed in the state, \$15 is forwarded to the General

Fund. Decreases in state revenue will ultimately depend on (1) any price difference between an expanded criminal history background check and a national criminal history background check and (2) if one method to request criminal history information is more accessible than another. It is assumed that if one type of criminal history background check is less expensive than another, the cheapest alternative will be selected by the requestor. Additionally, if one method to request criminal history information is easier to access, or requires less time than another, it was assumed that a more accessible method may also be preferred to the other. Any impact these factors may have on requests for national criminal history information and state revenue is indeterminable.

Board Merger & Repeal of Environmental Health Specialists and Hypnotists- Given no changes to fee structure or regulation within the proposed merged boards, revenue from licensing fees for barbers, should continue as currently collected.

Only the complete deregulation of hypnotists and environmental health specialists would lead to a reduction in revenue. The following table illustrates the amount of revenue collected over the last two state fiscal years by each of these professional licenses.

Table B. Fee Revenue from Hypnotist and Environmental Health Specialists FY 2008 - 2009.		
Profession	FY 2008 Revenue	FY 2009 Revenue
Hypnotists	\$5,525	\$1,110
Environmental Health Specialists	\$5,515	\$3,315
TOTAL	\$11,040	\$4,425

Both licensed hypnotists and environmental health specialists hold two-year licenses.

Mental Health Counselor Associate License- The impact of this provision on state revenues is indeterminable and would depend on the fee set by the Behavioral Health Board. As of December 12, 2009, there were 1,640 mental health counselors licensed. The current fee for mental health counselors is \$50. Total revenue collected by the Behavioral Health Board in FY 2009 was \$78,348.

Explanation of Local Expenditures: *Insurance Reimbursement for Athletic Trainers-* Local government groups enrolled in the Local Unit Government Employees (LUG) health plan may experience increased premiums. LUG participants have the same benefits as state employees, but are part of a separate risk pool. For 2008, there were 22 local government groups enrolled covering about 105 employees.

In addition, school corporations and local governments purchasing health benefit coverage on their own could incur increased premiums. The specific impact is indeterminable, but would depend on current health care coverage. It is unknown if local units would cover this cost or pass the cost on to employees, as cost sharing of health benefit premiums varies widely by locality.

Explanation of Local Revenues:

State Agencies Affected: AG; PLA, SPD.

Local Agencies Affected: Counties, municipalities, townships, school corporations, trial courts, local law enforcement.

Information Sources: Marty Allain, Lisa Bentley, PLA; PLA website, *Indiana Handbook of Taxes, Revenues, and Appropriations*; December 7, 2009, State Staffing Report.

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